Claims 1 – 22 were rejected solely under the judicially created doctrine of obviousness-type double patenting as being unpatentable over **"claims 1-X"** (empasis added) of U.S. Patent No. 6,480,298 (from which the present application specifically makes a claim of priority and which has been acknowledged as perfected in the filing receipt).

The Examiner further states that "[a]lthough the conflicting claims are not identical, they are not patentably distinct from each other because." Subsequently, the Examiner recites the language of claim 1 in the instant application and apparently indicates it is a broader statement of claim 1 of US 6,480,298. No detail or support is set forth as to the basis for the rejection of claims 7 – 22. Notably, independent claims 7, 17 and 21 include limitations that are distinct from claim 1 of US 6,480,298. Furthermore, claim 10 of the instant application is directed to an apparatus, not a method as recited in claim 1 of US 6,480,298. Accordingly, Applicants respectfully urge that in light of the withdrawal of all prior rejections of claims 7 – 22, these claims must be in condition for allowance.

Turning now to the substantive non-statutory obviousness-type double patenting rejection of claim 1 of the instant application, Applicants note that the rejection is incomplete, as the Examiner has failed to indicate where the teaching of the recited step of "concurrently applying heat to the substrate" is taught or suggested by the claims of US 6,480,298. Absent such a teaching in the claims of patent 6,480,298 and in view of the acknowledged lack of identity between the claims, the rejection is, at best, incomplete. Moreover, there is no indication of the claims relied upon in US 6,480,298 for teaching of the limitations set forth in dependent claims 2 – 6.

As the MPEP itself makes clear (MPEP §804), the analysis employed for obvious-type double patenting rejections should parallel the guidelines for a 35 USC §103 obviousness determination, and it is incumbent upon the Examiner to analyze the scope and content of the patent claim (relative to the claim in the application at issue), determine the differences in scope, determine the level of ordinary skill in the art and evaluate indicia of non-obviousness. Moreover any obviousness-type double patenting rejection should make clear the reasons why a person of ordinary skill in the art would conclude the claimed invention in the instant application is an obvious variant of the patented claim. As is clear from the rejection set forth at pages 2 - 3 of the Office Action, no such analysis was conducted, nor was any teaching or

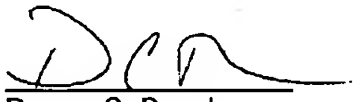
suggestion of the noted distinctions provided. Hence, the Examiner has failed to set forth a *prima facie* obviousness-type double patenting rejection to which the Applicants can respond. In view of this failure, Applicants respectfully submit that claims 1 – 6, as well as claims 7 – 22, are in condition for allowance and request an indication of the same in a subsequent Office Action.

As set forth at page 12 of Applicants' prior response to the second non-final action, Applicants respectfully request immediate attention to this response and a timely indication of the allowance of the claims as set forth herein.

In view of the foregoing remarks, reconsideration of this application and allowance thereof are earnestly solicited. In the event that additional fees are required as a result of this response, including fees for extensions of time, such fees should be charged to USPTO Deposit Account No. 50-2737 for Basch & Nickerson LLP.

In the event the Examiner considers personal contact advantageous to the timely disposition of this case, the Examiner is hereby authorized to call Applicant's attorney, Duane C. Basch, at Telephone Number (585) 899-3970, Penfield, New York.

Respectfully submitted,



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